

***United States District Court for the Eastern District of Pennsylvania***

Kathryn Gay,

2021 MAY -7 P 2: 22

*Plaintiff*

USDC-EDPA  
CLERK

v.

Case No.: 2:18-cv-02880

Children's Hospital of Philadelphia

(CHOP), *et al.*

*Defendants*

**PLAINTIFF'S RESPONSE TO THE MOTION *IN LIMINE* OF DEFENDANTS TO  
EXCLUDE THE TESTIMONY OF IRMA EVEARTS, AISHA AL-MUID, GEORGE  
BROOK GAY III, BROOK GAY, BAMBI GAY, AND RACHEL THOMAS**

Plaintiff hereby respectfully submits this memorandum in response to Defendants' motion *in limine* to exclude the testimony of Irma Evearts, Aisha Al-Muid, George Brook Gay III, Brook Gay, Bambi Gay, and Rachel Thomas, [ECF 127]. Once again, Defendants misrepresent Plaintiff's assertions in this case.

During the January 14, 2021, Final Pretrial Conference, the witness list was discussed. From a more extensive list of potential witnesses, Plaintiff selected Irma Evearts, Aisha Al-Muid and Dr. Rachel Thomas. These individuals were present at the hospital on different days, and each can testify about their own unique observations including distinct details of medical stability and/or child protection. The injuries Plaintiff sustained during the eighteen days her daughter was retained at the hospital are cumulative, but the testimony of her witnesses is NOT.

These witnesses will give probative evidence concerning both liability and damages. They can attest to details when witnessing Plaintiff's child being retained without reason caused by policies and procedures that the hospital, including individual staff, implemented during that time. Further, they will attest to the emotional, mental, and traumatic impact that seeing her child, who was subject to prison-like conditions during her stay, unlawfully retained caused. Plaintiff is allowed to present her case and provide relevant evidence of each section of it.

Moreover, Plaintiff understands the need to limit cumulative testimony. At the Final Pretrial Conference, Plaintiff was further instructed to choose a single witness from three family members. In a good faith effort to address evidentiary issues with Defendants, Plaintiff informed opposing counsel that she selected Bambi Gay. She did not intend to call on George Brook Gay III or Brook Gay.<sup>1</sup> [Exhibit A] Bambi Gay is available to testify about disturbing incidents which she first witnessed while K was retained at CHOP. Plaintiff heard the Court's concern and abided by its instruction. The Court should not now allow Defendants to pick and choose what they deem cumulative when the Court has already done so.

The probative value of Irma Evearts', Aisha Al-Muid's, Dr. Rachel Thomas' and Bambi Gay's testimony clearly outweighs the potential for undue prejudice.

### **CONCLUSION**

For the aforementioned reasons, Plaintiff respectfully requests that the Court deny, in part, DEFENDANTS' MOTION *IN LIMINE* TO EXCLUDE THE TESTIMONY OF IRMA EVEARTS, AISHA AL-MUID, GEORGE BROOK GAY III, BROOK GAY, BAMBI GAY,

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<sup>1</sup> The February 19, 2021, draft document, which Exhibit A is a page of, was referenced by Defendants in one of the three motions they filed that same day. [ECF 99, Ex. A]

AND RACHEL THOMAS. Plaintiff previously informed Defendants that she voluntarily excluded George Brook Gay III and Brook Gay as witnesses.

Respectfully submitted,

Kathryn Gay

1830 Manning Street, Unit 3  
Philadelphia, PA 19103

*Pro se*

DATE: May 7, 2021

**Certificate of Service**

I, Kathryn Gay, hereby certify that on May 7, 2021, a copy of the forgoing PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION *IN LIMINE* TO EXCLUDE THE TESTIMONY OF IRMA EVEARTS, AISHA AL-MUID, GEORGE BROOK GAY III, BROOK GAY, BAMBI GAY, AND RACHEL THOMAS was filed at the United States District Court for the Eastern District of Pennsylvania, and a copy of same was served by first class mail to the office of:

Patrick M. Harrington

DILWORTH PAXSON LLP

1500 Market Street, Suite 3500E

Philadelphia, PA 19102-2101

*Attorneys for Children's Hospital of Philadelphia*

Kathryn Gay

1830 Manning Street, Unit 3  
Philadelphia, PA 19103

*Pro se*

Dated: March 7, 2021

**EXHIBIT A**

*This column is not found  
in Defendants' witness  
schedule & should  
be omitted in the  
interest of fairness*

### PLAINTIFF'S WITNESSES

FACT WITNESSES			
Name	Address	Subjects of Information	Agreements
Irma Evearts	570 Main St Cherry Hill NJ 08002	Witnessed incidents leading to Plaintiff's arrival at CHOP and events during the hospitalization	Defendants will be filing a <i>Motion in Limine</i> as to cumulative nature of testimony, relevance, and other grounds.
Al Gury	Pennsylvania Academy of Fine Arts 118-128 N Broad St Philadelphia, PA 19102	Familiar with Plaintiff's experience leading to CHOP and witnessed incident(s) during the hospitalization	Plaintiff has withdrawn this witness.
Aisha Al-Muid	W. D. Kelley School 1601 N 28th St, Philadelphia, PA 19121	Familiar with Plaintiff's experience leading to CHOP and witnessed incident(s) during the hospitalization	Defendants will be filing a <i>Motion in Limine</i> as to cumulative nature of testimony, relevance, and other grounds
Beth Morris	Inquiry Charter School 1301 Belmont Ave Philadelphia 19104	Familiar with Plaintiff's experience leading to CHOP and witnessed the hospitalization	Plaintiff has withdrawn this witness.
Sylvia Rivera	PMI 14 Campus Boulevard Newtown Square, PA 19073	Familiar with Plaintiff's experience leading to CHOP and witnessed the hospitalization	Plaintiff has withdrawn this witness.
George Brook Gay III	4117 Presidential Ave. Lafayette Hill, PA 19444	Familiar with Plaintiff's experience leading to CHOP and witnessed the hospitalization	Plaintiff has agreed that either George, Brook or Bambi Gay will testify. Defendants will be filing a <i>Motion in Limine</i> as to cumulative nature of testimony, relevance, and other grounds.
Brook Gay	77 Middle Road No. 356 Bryn Mawr PA 19010	Familiar with Plaintiff's experience leading to CHOP and witnessed incident(s) during the hospitalization	
Bambi Gay	77 Middle Road No. 356 Bryn Mawr PA 19010	Familiar with Plaintiff's experience leading to CHOP and witnessed incident(s) during the hospitalization	